



8301 Valley Creek Road • Woodbury, MN 55125-3330 • woodburymn.gov
651-714-3500 • TDD 651-714-3568 • FAX 651-714-3501

October 23, 2020

Kirk Koudelka
Minnesota Pollution Control Agency
520 Lafayette Road N
St. Paul, MN 55155-4194

Jess Richards
Minnesota Department of Natural Resources
500 Lafayette Road
Saint Paul, MN 55155

Re: State of Minnesota Conceptual Drinking Water Supply

Dear Mr. Koudelka & Mr. Richards:

The City of Woodbury appreciates the opportunity to comment on the State of Minnesota Draft Conceptual Drinking Water Supply Plan (CDWSP), and for the continued opportunity to participate in the associated working groups. The City looks forward to further joint efforts with the Minnesota Pollution Control Agency (MPCA) and The Department of Natural Resources (DNR) to ensure safe drinking water for the East Metro area now and into the future. Additionally, the City of Woodbury is pleased with the State's decision to extend the comment period 45 days, until December 10, 2020. It is our hope that Woodbury staff can work with the co-trustee between now and December 10 to resolve some of the issues identified below. We respectfully request that the co-trustees respond in writing to the comments below by Thursday, November 12; allowing time for Woodbury staff to prepare a resolution to be considered by Council for the official City of Woodbury CDWSP response.

1. A written response is requested from the State to the technical comments provided on October 5, 2020. Please, respond by Thursday, November 12; allowing for remaining differences to be addressed before the comment period deadline.
2. Request clarity regarding the process in which decisions will be made and appeals will be considered in the coming years, before long-term treatment is implemented. Once the City of Woodbury has clarity on how the co-trustees intend to use the settlement funds, it is one of our top priorities to bring on treatment as expeditiously as possible. In order to ensure we have the appropriate staff and can plan work, we request clarity on timing of the availability of funds, the processes for securing funds and process for working through disagreements.
3. Preserve groundwater as the City of Woodbury's continued source of drinking water: The City of Woodbury supports the State's recommendation to continue use of groundwater for the City of Woodbury's water source.

4. Protect water quality for all residents in the Twin Cities east metropolitan area irrespective of current PFAS health-based value levels:
The City of Woodbury recommends providing treatment for all existing municipal wells in the settlement area. The science and understanding of PFAS is evolving and the contamination seems to be moving, efficiencies can be made by making this forward-thinking capital investment from the beginning. Additionally, this will allow agencies to provide equitable water distribution to all residents.
5. Health Index to be lowest threshold feasible equally applied to all communities:
Funding is limited and the terms of the 2018 settlement agreement between the State and 3M (the "Settlement") made clear that the highest priority is to enhance the quality, quantity, and sustainability of drinking water in the East Metro to serve current and future needs. All agencies should seek to treat water to the lowest feasible Health Index (HI) threshold. Woodbury supports the capital elements included in option 2 and would support an even lower HI, if feasible.
6. Compensate Woodbury for lost production of the City of Woodbury idled water production wells and the depreciation of Woodbury's other wells that have been over taxed to make up for the loss of impacted water wells and any other damages:
The City of Woodbury requests that the State include costs for the construction of one of the proposed five new wells needed, in order to ensure Woodbury is compensated for the loss of Well 1 and its State proposed abandonment, due to PFAS contamination.
7. Support the State's recommendation on pretreatment for Iron and Manganese:
The City of Woodbury supports the State's recommendation to provide pretreatment at the City of Woodbury plant, improving the performance of either granular activated carbon (GAC) or Ion Exchange Resin (IX).
8. Request an independent, 3rd Party evaluation of capital and operating and maintenance (O&M) estimates to ensure adequate funds have been allocated:
Woodbury has concerns that the State's initial capital and ongoing O&M cost estimates are significantly undervalued. Woodbury has provided the State and its consultants with various examples to express these concerns and further outlined an analysis in a technical memo issued to the State on October 5th, 2020.

A peer review of all costs and estimates used to build the Conceptual Drinking Water Plan, including a technical review of the Plan's sizing considerations and ongoing O&M costs would inform the State's allocation of the settlement assets.
9. Request modification to the Drinking Water Plan to comply with the Settlement by fully and equitably funding capital needs and O&M expenses for treatment of drinking water:
The City of Woodbury recommends the State place greater emphasis on complying with the priorities identified in the Settlement that places first priority on ensuring clean drinking water in sufficient supply to residents and businesses in the East Metropolitan Area to meet their current and future water needs. In the process of meeting this goal, making sure that appropriate funding is allocated so that all PFAS-contaminated drinking water supplies are addressed. Further funding of those items identified as lower priorities in the Settlement may occur only if funds remain after the first priority goals are fully satisfied.

The current proposal “sets aside” and allocates over \$150 million to these lower priorities at the expense of items that should be seen as the top priority to be fully paid for and funded. For example, rather than increase the amount of funds allocated to capital costs and annual O&M for the additional public water treatment in Option 2 so that those public water supplies can continue O&M for 40 years, as would be provided in Option 1, the State is choosing, instead, to “pay for” that additional treatment by reducing the number of years of O&M to be covered (from 40 to 35), rather than allocating that money from any of the lower priority allocations (which are proposed to be kept exactly the same whether Option 1, 2, or 3 is chosen).

The Settlement is clear that cleaning the drinking water supply is priority one and that other priorities should be funded only if and when funds remain after satisfying those top priority projects. Only after priority one projects have been submitted and it is certain that the state has the needed funds to complete these commitments, should any funding be set aside for sustainability and conservation projects.

If any money is left over to be set aside for sustainability and conservation (outside of the reserved \$20 million under the Settlement) the State should specifically identify those projects, seek feedback from the working groups as to the relative priorities for such projects, and only reserve the necessary funding. Any available funding after this process should be used to increase capital investment and extend the years of O&M available to agencies, to as near 100 years as financially feasible.

10. Contractual commitment from the State of Minnesota for all capital costs and ongoing O&M:

The City of Woodbury requests the State provide a financial guarantee for projects included in the final Conceptual Drinking Water Supply Plan. Concerns regarding the underestimated funding for both capital and O&M in the State’s proposed plans have been expressed and municipalities need to be able to create rate structures and financial plans with confidence. To reduce administrative burden, Woodbury requests to receive both capital and O&M funds in a trust to be invested by the City, rather than continuing to apply for grant managed funds for projects.

11. Indemnify all LGUs and private owners for ownership and disposal of treatment material:

The City of Woodbury requests that the State define the type of agreements that will be entered into with local units of government and private well owners for purposes of funding of municipal investments or point of entry treatment (POET) systems. These agreements should affirmatively state that these treatment methods are being required by the State under the Settlement and that funded entities (local units of government or POET operators) shall be held harmless in the event that otherwise legal disposal of used treatment materials are later determined to require remediation or environmental mitigation. Given the large number of POETs and O&M treatment materials that will be required under the State’s solution, the State should be responsible for the ownership and disposal of these materials (leasing or otherwise allowing use for processing and treatment by the local units of government and private well owners).

12. Provide additional O&M and Capital investment for all 14 communities:

Woodbury requests that the State examine the wide differences in the funding per household for communities across the East Metro area. This approach is imbalanced and

may have impact on capital and long-term O&M for all 14 communities, based on identified solutions. The disproportionate distribution is especially concerning because there are clear alternative solutions with the same outcome for these households.

13. 100 year O&M reimbursement standard for both POET and municipal water treatment systems:

The State has not explained how providing for only 35 or 40 years of O&M for public water treatment satisfies the goal of insuring a permanent remedy, particularly when the sources of PFAS will likely remain in the environment well beyond those time frames, and the State is proposing to provide for O&M of private water supplies for 100 years. The City of Woodbury recommends that the funds be reallocated to allow for public water also to be treated for 100 years (or as long as the approximately \$700 million will allow), and if that requires that amounts be removed from the approximately \$150 million currently proposed for lower priority activities, those funds should be reallocated for public water treatment.

14. Clearly articulate drinking water protection projects and adjust the drinking water protection funds to meet those needs:

The City of Woodbury supports the concept of reserving money for drinking water protection projects, but believes the State should identify those projects, seek feedback from the working groups as to the relative priorities for such projects, and only reserve the necessary funding. Any available funding after this process should be used to increase capital investment and extend the years of O&M available to agencies.

15. Further study and ensure adequate appropriations for the proposed Lake Elmo and Newport Interconnects:

To support interconnects, the City of Woodbury needs to be certain about the following:

- It will not negatively impact Woodbury's future water appropriations. The City of Woodbury requests needed appropriations approval to supply those communities supplied by interconnects before construction of interconnect.
- A clear analysis and assessment of rate impacts, administrative costs and recapitalization to ensure Woodbury adequately compensated for the infrastructure and burden, specifically such that Woodbury residents do not end up subsidizing services to other communities.

16. Provide comment on how the following unaddressed scenarios will be handled:

The Conceptual Drinking Water Supply Plan does not explain:

- How it has handled or budgeted for the potential significant additional annual costs to handle wastes as "hazardous", if federal or state laws or regulations change in this regard.
- How it has estimated or budgeted for the additional or different treatment technology costs that might be required if the State or Federal Government adopts health based values (HBV)s or other standards/guidelines for additional PFAS (particularly the newer "replacement" PFAS with 6 or fewer carbons) that are not as effectively filtered or removed by traditional GAC systems that work well on the larger PFAS with 8 or more carbons (like PFOA and PFOS). As is occurring in communities struggling with GenX or other "newer" PFAS compounds, completely different types of treatment systems (other than GAC or even IX) may be required to effectively filter these other PFAS compounds. Even the amounts set aside as

“contingency” funds do not seem large enough to cover such additional potential costs.

- The State should also discuss its legal authority or planned budget and estimates in more detail where the Conceptual Drinking Water Plan assumes conversion of private wells to municipal systems. Such forced conversion of private wells (from non-cost water to monthly bills) is not discussed in depth in the Plan and it is not clear if the Plan estimates consider the potential that individuals currently on private wells that the Plan assumes will be connected to municipal systems will, instead, demand retained connection to private wells with POET systems, resulting in further per-capita cost increases, potential overall capital cost increases, and improperly estimated O&M expenses for the Plan.
- Woodbury has directed AE2S to review technical components and has included comments on infrastructure and budgets based on their analysis in the October 5, 2020 technical memo submitted to the State.

17. Community involvement and project selection:

The City of Woodbury requests an advisory board be assembled, consisting of representative from each of the East Metro agencies to provide accountability and support to State’s funding decisions going forward. Continued input should be garnered from the advisory groups annually, at a minimum, for the life of the funds.

18. Settlement funds should not be utilized for the remediation of contamination.

The funds under the 2018 settlement agreement are for enhancing the quality, quantity and sustainability of the drinking water in the East Metropolitan Area and should not be utilized for the remediation of contamination emanating from the former disposal sites outside of the “source assessment and feasibility study known as Project 1007 in the conveyance of PFC’s in the environment” as defined in the settlement agreement. The remediation of those contaminants should be completed under existing rules, State authority, and other agreements between the State and 3M.

We look forward to continuing to work with the co-trustees to resolve outstanding questions and concerns. Should you have any questions regarding this letter, please contact Mary Hurliman, Public Works Director, at (651) 714-3514.

Sincerely,



Anne W. Burt
Mayor

cc: Councilmembers
Clint Gridley, City Administrator
Mary Hurliman, Public Works Director
Chris Hartzell, Engineering Director
Jim Westerman, Utility Manager
Mike Madigan
Dave Filipiak